

LBNL – PROCUREMENT STANDARD PRACTICES

Section: 31 Subcontract Cost Principles

Subject: 31.3 Unallowable Costs

PURPOSE: This standard practice (SP) summarizes the various types of costs that are unallowable under the Laboratory's Prime Contract.

POLICY: The Laboratory shall not incur unallowable costs in performance of the Prime Contract.

SCOPE: This SP applies to all subcontracts.

DEFINITION:

Reasonable Costs As used herein, costs are considered reasonable if the nature of the goods or services acquired or applied and the amount involved reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made.

PROCEDURES:

Allowable Costs As defined in Prime Contract Clause H.4, *Advance Understandings Regarding Additional Items of Allowable and Unallowable Costs and Other Matters*, as well as other provisions such as FAR 31.2, *Contracts with Commercial Organizations*, and DEAR 970.31, *Contract Cost Principles and Procedures*, allowable costs are the costs and expenses actually incurred in the performance of the contract work in accordance with its terms that are necessary, or incident thereto, and are determined to be allowable based on:

- Reasonableness, including the exercise of prudent business judgment;
- Consistent application of generally accepted accounting principles and practices that result in equitable charges to the contract work; and
- Recognition of all exclusions and limitations set forth in the Prime Contract.

Unallowable Costs For expanded definitions and circumstances of unallowable costs the procurement specialist should examine Clause H.4 of the Prime Contract (which in due course refers to such DEAR and FAR provisions as DEAR 970.5232-2, *Payments and Advances*, DEAR 970.31 and FAR 31.2), as well as other appropriate Prime Contract clauses.

The procurement supervisor should also be consulted to determine whether a specific cost is unallowable under a subcontract, should there be some doubt.

Purchase Requisition Review The purchase requisition must be reviewed to determine whether the goods or services requested represent a

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reasonable expenditure of funds given prudent business judgment and are not for an expressly unallowable cost.

Particular attention should be paid to purchase requisitions involving:

- Advertising and public relations costs designed to promote the University or Laboratory, including the costs of memorabilia such as models, gifts, and souvenirs;
- Donation, contribution or gift costs;
- Entertainment costs, including costs of amusement, diversion, social activities, and directly associated costs such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities; costs of membership in any non-business related social, dining, or country club, or organization;
- Alcoholic beverages;
- Meetings or conferences (due to spending limits on meals and verification of bona fide business need);
- Printing costs (see SP 8.1, *Special Purchases*); and
- Personal or luxury items that do not meet the test of business necessity.

Where there is a question as to whether an action is unallowable, the issue must be raised to the procurement supervisor for resolution.

Reimbursement of Unallowable Costs

Costs that are later determined to be unallowable under the Prime Contract must be reimbursed to the Department of Energy using funds from the University of California or another non-federal source.

RESPONSIBILITIES:

Procurement Specialist

The procurement specialist is responsible for reviewing purchase requisitions involving potentially unallowable costs in accordance with this SP and the Prime Contract.

Procurement Supervisor

The procurement supervisor must resolve questions regarding unallowable costs for subcontracts.

REFERENCES:

Prime Contract Clause H.4 - Advance Understanding Regarding Additional Items of Allowable and Unallowable Costs and Other Matters

Prime Contract Clause I.114 - Contractor Purchasing System